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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

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GIL CROSTHWAITE, RUSS BURNS, in their
respective capacities as Trustees of the
OPERATING ENGINEERS HEALTH AND
WELFARE TRUST FUND FOR NORTHERN
CALIFORNIA, et al.

Case No.: C07-5192 WHA

NOTICE OF VOLUNTARY DISMISSAL

Plaintiffs,

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v.
Defendants.

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PLEASE TAKE NOTICE that pursuant to F.R.C.P., Rule 41(a)(1), plaintiffs GIL CROSTHWAITE and RUSS BURNS, in their respective capacities as Trustees of the OPERATING ENGINEERS HEALTH AND WELFARE TRUST FUND FOR NORTHERN CALIFORNIA, et al., voluntarily dismiss, without prejudice, their claim against defendants DALECON, INC., and RONALD HENRY STICKNEY. Defendants have entered into a payment plan for all amounts claimed by plaintiffs, and plaintiffs have not previously filed or dismissed any similar action against defendants.

It is therefore requested that this action be dismissed without prejudice, and that the Court shall retain jurisdiction over this matter. for one year.

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NOTICE OF VOLUNTARY DISMISSAL
CASE NO.: C07-5192 WHA

1 I declare under penalty of perjury that I am the attorney for the plaintiffs in the above
2 entitled action, and that the foregoing is true of my own knowledge.

3 Executed this 16th day of October, 2008, at San Francisco, California.

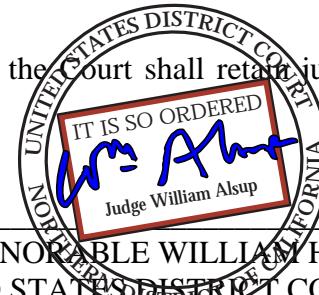
4 SALTZMAN & JOHNSON
5 LAW CORPORATION

6 By: _____/s/
7 Michele R. Stafford
8 Attorneys for Plaintiffs

9 IT IS SO ORDERED.

10 This case is dismissed without prejudice and the Court shall retain jurisdiction over this
11 matter for one year.

12 Date: October 20, 2008



13 THE HONORABLE WILLIAM H. ALSUP
14 UNITED STATES DISTRICT COURT JUDGE

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16 The proposed order is approved as modified. The Court shall retain jurisdiction
17 over this matter for one year only.

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**NOTICE OF VOLUNTARY DISMISSAL
CASE NO.: C07-5192 WHA**

1 **PROOF OF SERVICE**

2 I, the undersigned, declare:

3 I am a citizen of the United States and am employed in the County of San Francisco, State
4 of California. I am over the age of eighteen and not a party to this action. My business address is
5 44 Montgomery Street, Suite 2110, San Francisco, California 94104.

6 On October 17, 2008, I served the following document(s):

7 **NOTICE OF VOLUNTARY DISMISSAL**

8 on the interested parties in said action by placing a true and exact copy of each document in a
9 sealed envelope with postage thereon fully prepaid, in a United States Post Office box in San
10 Francisco, California, addressed as follows:

11 **Robert D. Swanson, Esq.**
12 **Boutin Gibson DiGuisto Hodell, Inc.**
13 **555 Capitol Mall, Suite 1500**
14 **Sacramento, California 95814**

15 I declare under penalty of perjury that the foregoing is true and correct and that this
16 declaration was executed on this 17th day of October, 2008, at San Francisco, California.

17 _____/s/
18 Vanessa de Fábrega

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NOTICE OF VOLUNTARY DISMISSAL
CASE NO.: C07-5192 WHA